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“From Orientalism to a Contextualized Modern Strategy on Development in Islam”

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FROM ORIENTALISM TO A CONTEXTUALISED MODERN STRATEGY ON DEVELOPMENT IN ISLAM

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1. INTRODUCTION

An established academic literature led by Kuran and Greif,¹ inspired by the work Nobel Prize’s winner North,² supports the idea that Muslim countries abiding by Islam and Islamic law face institutional problems when attempting to engage with economic development. Kuran has attributed these long-standing problems to a series of causes, including Islamic institutions, the way Islamic law apprehends economy, the merging between law and politics and the little consideration of economics by Muslim rulers.³ His overall argument is of a systemic nature, denouncing the backwardness of Muslim institutions and processes such as the *waqf* and the laws on inheritance that would prevent countries abiding by Islam to develop.⁴ Other than Kuran’s clear methodological error of looking at the Middle East and inferring that all countries in the region are of Muslim governance or influenced by Islam in the way they approach the economy and development, forgetting to look at the Gulf, Asia and Africa, the criticism shows a lack of understanding of the purpose of Islam.

There are attempts in the Muslim world to demonstrate that Islamic institutions and processes are able to cope with modern economy and ensure economic development. A good example is the fight against corruption in the Islamic republic of Iran: new laws have been enacted and others reformed to ensure the stability of the Islamic republic of Iran, either through the

¹ Timur Kuran, *The Long Divergence: How Islamic Law Held Back the Middle East* (Princeton: Princeton University Press, 2011); Avner Greif, “Cultural Beliefs and the Organization of Society: A Historical and Theoretical Reflection on Collectivist and Individualist Societies”, *Journal of Political Economy* 102: 5 (October 1994) 912-950

² Douglass North, *Structure and Change in Economic History* (W. W. Norton, 1981)

³ Kuran, *supra* note 1.

⁴ I speak of institutions and processes as, in Islam, the institutons such as the *waqf* or the law of inheritance are closely associated with a process.

reinforcement of existing governance structures or by directly referring to Muslim practices. The authorities have referred to classic Islamic law and ethics to condemn and prosecute corruption to protect the public interest.

While it is correct that there is the need for a new development strategy anchored in Islam, focusing on institutions and processes won’t enable a proper analysis of how Islam can play a further positive role in developing the economy. Besides, proponents denouncing Islam as being the cause for what is perceived as a lack of development in the Muslim world is that this trend of Islamic economics put forward theories imbued with orientalism.⁵ They ignore the very purpose of Islam which is to social justice through the re-distribution of wealth to encourage a secular agenda.

The contribution of this paper is to shift the focus from economics to governance to examine whether a new approach could be found to promote economic development from an Islamic perspective. It has been said that, in Western democracies, the focus is on fighting corruption through strengthening governance and the rule of law. I argue that it is the very same in Islam, and it is how Islam has been structured: the answer to economic development is to be found in the governance message laid out the scriptures. The institutions such as the *waqf* or the *zakat* are then representative of that overall Islamic governance message. While Western States and the Muslim world, terminology that I will endorse for this paper although they reflect a euro-centric vision of the world, have the same conception of rooting development in governance (thereby rejecting the idea of economy as operating in a governance vacuum), Islam goes further. This is illustrated in fight against corruption: while believers are responsible to the society in a horizontal perspective, they are also believers who are responsible to God, in a vertical relationship. This means that any legitimate fight against corruption and economic crimes to ensure development has two levels: the state is accountable but is the believer. This distinction between the objective factor and the subjective factor is noted by Pope.⁶ My paper therefore side-lines the use of western systems of economic development suggested by Kuran,⁷ to embrace post-colonialism and post-orientalism.⁸ I suggest examining the Islamic model of

⁵ Abdallah Zouache, « De la question coloniale chez les anciens et les néo-institutionnalistes », *Revue d’Economie Politique* 1 : 124 (2014), 129-149.

⁶ Pope, 2007

⁷ Kuran, *supra* note 1.

⁸ Adeel Malik, “Was the Middle East’s economic descent a legal or political failure? Debating the Islamic Law Matters Thesis”, CSAE Working Paper Series 2012-08, Centre for the Study of African Economies, University of

development to enhance cultural legitimacy, with the aim of contextualising the concept to the 21st century. I embrace Taha’s methodology of contextualising the message of Islam to modern norms rather than adopting a Western stance.⁹ My methodology will be systemic as I will analyse the role of governance; it will also be instrumental as I will analyse the use of Muslim techniques such as *ijtihad*, *maslaha* or *darura* in ensuring contextualisation.

The paper seeks to address the gap in the literature: I will examine the argument that Islamic law not conducive to economic growth; yet, instead of exploring the lack of political will identified by Rubin,¹⁰ I will focus on governance to explain how to ensure economic development in Islamic terms, rejecting utilitarian approaches to *ijtihad*. I will begin by deconstructing the orientalist approach to Islam economics. In part two, I will examine how development and anti-corruption, a case-study, have been apprehended in the scriptures and their interpretations. In the last part of this paper, I will demonstrate how a systemic approach and an instrumental approach anchored in Islam can enable a new strategy for development, with a focus on anti-corruption.

2. CHALLENGING THE ORIENTALIST PERSPECTIVE ON DEVELOPMENT

2.1 THE ORIGINS OF THE ORIENTALIST PERSPECTIVES ON ISLAM AND DEVELOPMENT

In his work, Kuran clearly blames Islam for a Middle East that is, according to him “widely considered an economic laggard.¹¹” He believes the Middle East fell behind the West because it delayed the adoption of the key institutions of modern economy.¹² Other scholars agree with his view: Acemoglu and Robinson, when analyzing the factors for Arab Spring, note the lack of economic development in the countries that underwent protests.¹³ Kuran goes further by

Oxford, 2012, <https://www.qeh.ox.ac.uk/sites/www.odid.ox.ac.uk/files/Zouache-Islam%20and%20development.pdf>

⁹ Mahmoud Mohammed Taha, *The Second Message of Islam* (Syracuse University Press, 2015)

¹⁰ Jared Rubin, “Islamic Law and Economic Development”, in *Research Handbook on the History of Corporate and Company Law*, ed. Harwell Wells (Edward Elgar, 2018) 17-32.

¹¹ Kuran, *supra* note 1, at x.

¹² *Id.*, at 2.

¹³ Abdallah Zouache, “Islam, institutions, development and the mistakes of orientalist economics”, *The New Perspectives on Political Economy of the Middle East*, Oxford Centre for Islamic Studies, Oxford 27-28 October 2019, available at <https://www.qeh.ox.ac.uk/sites/www.odid.ox.ac.uk/files/Zouache-Islam%20and%20development.pdf>

arguing that Islamic economics is “simplistic, incoherent, and largely irrelevant to present economic challenges.¹⁴” He isn’t the only scholar adopting a historical stance on Islam, a religion perceived as to be implemented in a public setting solely at the time of Prophet, if not slightly after. This view is also supported by Hallaq and An Na’im when it comes to the Shari’a law, explaining why An Na’im embraces secularism as a solution (and Kuran speaks of secularization¹⁵).¹⁶ The overall argument is that Islam as a faith, a religious private practice can thrive, but should be kept away from public affairs because its practice is too remote from the Prophet’s intentions. Kuran goes much further by saying that “[F]rom the mid-nineteenth century onward, in Egypt, Turkey, and elsewhere in the region, [western] institutional transplants curtailed the domain of dysfunctional Islamic institutions.¹⁷” He also laments the lack of full-transplantation of the French commercial code in the mid nineteenth century.¹⁸

This discourse of Islam backwardness when it comes to development isn’t new, and find its roots in the beginning of the 19th century, with the Tanzimat reform¹⁹: the Ottoman Empire was on the brink of collapse and welcome legal transplants from Europe, believing it would regenerate its structural approach to governance. This is why the commercial code was the first piece of Islamic-inspired legislation to be reformed. As noted by Kroessin, Muslims intellectuals themselves began to speak of retardation.²⁰ It is also when the idea of a Golden Era of Islam versus the Dark Ages began to take hold supported by Islamic revivalists. The field of economics and development underwent a similar evolution as all other ideas in Islam, with an urgent need to either return to the Golden era, transplant foreign instruments or reform Islam.

2.2 ISSUES WITH THE ORIENTALIST APPROACH

There are several issues with the arguments put forward by the orientalist economic trend: firstly, and looking at the work on Kuran only, there is a problem with over-focus on institutions. The way Kuran separates institutions and processes like the *waqf*, *zakat*,

¹⁴ Kuran, at *supra* note 1, xi

¹⁵ Kuran, *supra* note 1, at 6

¹⁶ It should however be stressed that Hallaq and An Na’im’s views aren’t to be included in an Islamic revivalist perspective that would seek to glorify the first centuries of Islam as the Golden Age.

¹⁷ Kuran, *supra* note 1, at 10

¹⁸ *Id.*

¹⁹ Youssef M. Choueiri, *Islamic Fundamentalism* (A&C Black, 1 Jan 1997), 20

²⁰ Mohammed Ralf Kroessin, *Concepts of Development in Islam: A review of contemporary literature and practice*, working paper for the Religion & Development Research Programme, at 37, available at http://epapers.bham.ac.uk/1501/1/Kroessin_2008_Concepts.pdf

entrepreneurship or inheritance laws from governance is problematic: he analysed them separately from the overall Muslim philosophy of economics and development. The purpose of Islam is to ensure social justice and this is done via the institutions decreed by Kuran. Seeking to scrutinize these institutions without relating them to the Muslim state that has been engineered to promote social justice and protect the poor is consequently a methodological error. Kuran is therefore mistaken when he states that the institutions are outdated. These institutions and processes are at the very heart of Islam: they reflect the inherent religious and cultural approach to economy and development, and will never be outdated unless Islam is as well. This raises the question of whether or not Kuran has a secular agenda that he implements by looking at institutions.

The second issue is with the lack of consideration of the influence of governance over economy and development. Some scholars explain social protests such as the Arab Spring mainly through economic, ignoring the impact corruption, the disrespect of the rule of law and human rights’ violations would have on society.²¹ It is interesting to note how these scholars apprehend social disorders through economy, rooting them in under-development that would have been caused by inadequate Islamic institutions and processes.²² Uprisings then explain governance hiccups via economics, forgetting that, in Islam, governance is the starting point for economics to be implemented.²³ Indeed, in Islam, everything is organized around the society of believers, to serve it and ensure that believers are free to fulfil their rights and duties. The liberal disconnect between governance and economics and the lack of consideration for Islamic views lead to a narrow understanding of social events in the Muslim world.²⁴ Besides, the temptation, when the issue of economics and development are stripped from the governance context, is indeed to believe that one economic solution would fit all. This is how western economic growth and development concepts and institutions have been transplanted with little regard to Islamic perspectives on the topics. This has been widely done already in the field of law, including commercial law, since the Ottoman era; it amounts to neo-colonialism although Kuran reject this label by accusing the Middle East of having fallen prey to foreign powers.²⁵ Yet, there is an orientalist economic trend in development studies that is guilty of projecting western views

²¹ Mario Ferrero, “Why the Arab Spring turned Islamic: the political economy of Islam”, *Constitutional Political Economy* 29:2 (2018) 230-251

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²⁵ Kuran, *supra* note 1, at 5.

over the Middle East and Islam, concluding that Islam is inadequate. Yet, we can’t apply Christian factors or look at the emergence of the right to property in France after 1789 to understand the Muslim world. Doing so shows a lack of intellectual initiative. It is indeed much easier to turn to already existing and tested concepts rather than turn inwards, and look at reforming Islam.

It is key to begin by questioning the role of the State and leadership when it comes to development. As I argued earlier, talking about development and economics without anchoring it in governance leads to the emergence of theories that lack realism. One reads North, Kuran and Greif and wonders “what now?”. Can communities and institutions radically change their approach to economics and development? Or should we abandon Islam to the private sphere and embrace a liberal, capitalist, secular system, beginning by reforming institutions? Such approach would be such as complex as reforming or as encouraging more transplants, were they economics, political, legal, cultural or other. The academic community but also practitioners now have enough experience to know that blunt secularisation and transplants don’t work, as illustrated by the failure of implementing liberal peace in Iraq and in Afghanistan. These endeavours lacked cultural, or religious, legitimacy - concept put forward by An Na’im before opting for secularism²⁶ – in transplanting western economic processes and institutions. Carving in and adopting western values via transplants can also undermine Islam: we need to be aware of the consequences of what we do in in one field of Islam and how it impacts other fields of Islam. This means that if we adopt western liberal capitalist institutions in processes in development, it would then contaminate family law or criminal law. This would be a moot issue when meeting a secular agenda; it would be a bigger matter when states and communities try, as they often do, to mix western ideas with Muslim ideas.

Yet, Kuran has a point: Islam doesn’t address private capital accumulation, corporations, large-scale production, and impersonal exchange.²⁷ Muslim states than inherited an Islamic system had to reflect how to adapt an Islamic stock market.²⁸ Islamic ethics prohibit *riba* and *gharar*.

²⁶ Abdullahi An Na’im, “Islam, Islamic Law and the Dilemma of Culture Legitimacy for Universal Human Rights”, in Claude E. Welch and Virginia A. Leary, *Asian perspectives on Human Rights* (Westview, 1990) 32-40.

²⁷ Kuran, *supra* note 1, at 20; although Rubin has a different view on this: “Bills of exchange, interest bans, and impersonal exchange in Islam and Christianity” *Explorations in Economic History* 47:2 (April 2010) 213-227

²⁸ Abul Hassan and Sabur Mollah *Islamic Finance: Ethical Underpinnings, Products, and Institutions* (Palgrave, 2018) 132-133

Does this mean that the Muslim world is incapable to meeting the expectations of modern economy? Are Muslim countries doomed to remain less development than western states?

3. UNDERSTANDING THE MUSLIM PERSPECTIVE ON DEVELOPMENT LOOKING AT ANTI-CORRUPTION

3.1 THE MUSLIM SOCIAL APPROACH TO ECONOMY AND DEVELOPMENT

Part of the literature on economy and development states that Islam contains all the relevant and needed prescribed norms when it comes to development, and also to economic crimes and corruption. Islamic social theories and concepts of development aim at supporting the poor and the oppressed through redistribution of wealth, as illustrated by the following hadith narrated by Aisha:

The Prophet used to seek refuge with Allah (by saying), "O Allah! I seek refuge with You from the affliction of the Fire and from the punishment in the Fire, and seek refuge with You from the affliction of the grave, and I seek refuge with You from the affliction of wealth, and I seek refuge with You from the affliction of poverty, and seek refuge with You from the affliction of Al-Masih Ad-Dajjal."²⁹

The aim of Islam is to create a society in which individuals are equally empowered to fulfil their rights and duties; they are enabled to do so through an equal access to resources and social justice. Economic prosperity for all is therefore key in Islam, and the whole society, and as well as the State but also the institutions, are geared towards this goal. In his study of welfare in Islam, Benthall stresses that purpose of Islam and demonstrate that the provision of access to healthcare, education and social safety by the state and all actors, institutions and processes are key to enable believers.³⁰ Institutions denounced by Kuran are therefore fit for purpose in a Muslim context.

In the field of economics, the focus is on morality and ethics (*al-akhaq al-karimah*) as demonstrated by hadith such as this one “I was only sent for perfecting morality” and by the

²⁹ Bukhari, Book 8, Volume 75, Hadith 387

³⁰ Jonathn Benthall, *The Charitable Crescent: Politics of Aid in the Muslim World* (I.B. Tauris, 2003)

Quran 22:41 and Quran 4:135. Another hadith states that those who don’t pray and feed the poor will not access paradise. In Islam, believers are concerned with sharing the wealth “O ye who believe! Give of the good things which ye have honourably earned” (Quran 2:267); this is why unjust enrichment is strictly regulated through *riba* and *gharar*. The guideline remains that business should be grounded in ethics, as the Quran repetitively speaks of the need to “weigh with accurate scales”, for example in Quran 55:7-8. *Ijithad* has then enabled interpreters to embrace modern concepts such as sustainability and fair trade. This doesn’t mean that the creation of wealth is prohibited, but rather than wealth should benefit all, hence the need for ethics. There are rights and duties, processes, institutions but also checks and balances in place, guidelines for bankruptcy, rules for contracts and much more.³¹ In that regard, Islamic institutions aren’t there to make a profit but to keep the weight scales balanced.³² This means that “Islamic theology espouses a distinct strategy for development”³³ with a focus on economic growth; it doesn’t mean that Islam rejects capitalism but that it measures development and economic performances differently.

3.2 THE EXAMPLE OF ANTI-CORRUPTION

Islam therefore has a set of principles, techniques, institutions, processes and instruments to address development. This is demonstrated by the fight against corruption. The tools for effectively rooting out corruption refer to corruption itself (*fasad*) and the perpetrators (*mufsidun*) in Quran 2:205; 26:151 and 30:41. Bribery is a serious offence, as illustrated by the hadith “’Damned is the bribe-giver (or 'corrupter'), the bribe-taker (or 'corrupted') and he who goes between them.’” The scriptures also explain how to avoid it. Corruption at the level of governance is also to be found in the scriptures: they have been interpreted to empower the leader to prevent evil (*nahy ‘an al-munkar*).³⁴ It is prohibited for public officials to received gifts, donations, soft loan or others.³⁵ The struggle against corruption has always been put in practice, as illustrated by the Caliph Umar: he expropriated officials that had accumulated personal wealth when holding public positions,³⁶ but also targeted business men or contractors

³¹ Transparency international, “Islamic Approaches to Corruption”, available at <https://www.u4.no/publications/islamic-approaches-to-corruption.pdf>,

³² Kroessin, *supra* note 20, at 48.

³³ *Id.*, at 49

³⁴ Azyumardi Azra, “Islam corruption, good governance and civil society: the Indonesian experience” *Islam and Civilizational Renewal* 2:1 (2010) 109-125

³⁵ Mohammad Hashim Kamal, “Fighting Corruption: An Islamic Perspective”, *New Straits Times*, 12 October 2019, <https://www.nst.com.my/opinion/columnists/2019/07/507029/fighting-corruption-islamic-perspective>

³⁶ *Id.*

that had worked with the government, thereby showing that the norms applied to the public and the private sectors. The Caliph Jafar al-Mansur later created a department to root out corruption.³⁷

It has been said that the scriptures pertaining to business practices and the State don’t provide guidelines as to how corruption should be dealt with.³⁸ This is incorrect as there are principles in Islam that are very similar to the OCDE or Transparency International tool of measurement, with the extra Muslim twist. For example, the concept of trust (*Amanah*, Quran 4:58 and 8:72) is central to Islam and applies to both governance and business practices: public and private entities need to interact in trust. Albab organizes different principles to organize the fight against corruption.³⁹ He notes the existence of several principles such as respect for the scriptures, justice, trust, responsibility, accountability and others; his list of anti-corruption principles is strikingly similar to the list used by Freedom House to assess the corruption index.

There are interesting case studies: Sudan, Malaysia, Nigeria and Iran have all approached the issue of corruption via Islamic law. It is the typical methodology used by nation-states which enables them to rely on interpretations made by selected and state-approved clerics to draft a law. This approach is only possible thanks to the specificity of Islamic law that is *ijtihad*, and which, in a way resembles the strategies adopted by judges in civil law and the system of precedents existing in common law. This flexibility enables clerics and then law-makers to rely on the scriptures to derive their meaning when it comes to development. The hadith on pollination is a good illustration of that method: it helps understanding how the Prophet empowered experts in the field of economics and development.

This means that an anti-corruption initiative in the Muslim world would be more successful if rooted in Islam.⁴⁰ This demonstrates that Islam provides all the answers to development and anti-corruption. The very institutions and processes criticised by Kuran are at the very heart of Islamic economics because of their religious meaning. We are therefore witnessing a hungtintonian clash between two economic civilizations.

³⁷ Id.

³⁸ Transparency International, *supra* note 31

³⁹ Ulul Albab, “The spirit of Islam in the development of good governance and anti-corruption concepts”, proceedings of the 1st Asian conference on Humanities, Industry and technology for Society, 30-31 July 2019, at 3, available at <https://eudl.eu/doi/10.4108/eai.30-7-2019.2287820>

⁴⁰ Transparency International, *supra* note 31

The clash of civilization of the end of history are two war-mongering paradigms that can easily be defeated by looking at the work done by reformists in Islam. Most of the endeavours has been focused on reforming Islam to match the next century needs and expectations. This examination of the scriptures happens in different fields (home, work, mosque...) but all converge to co-exist within the Nation State, when that State is willing to include them. Yet, looking at institutions, Kuran blames Middle Eastern States for exaggerating their role in people’s lives.⁴¹ I disagree with that side-lining of governance as, in Islam, society and the state are central to the fulfilment of social justice in a reformed context.

4. MAKE ROOM FOR THE STATE AS GOVERNANCE MATTERS

4.1 ISLAM, THE NATION STATE AND ECONOMIC DEVELOPMENT

Kuran is under the impression that the attempt at Islamising economy is a way of creating a Muslim identity in the absence of a proper Islamic governance and proper political entities.⁴² This statement is erroneous at two levels: there is an Islamic approach to economics as demonstrated above and there is a Muslim State. Islamic economics is inherent part of the Muslim state.⁴³ There is a wealth of scholarly work to also show that Muslim economics, that is ready to meet the 21st century challenges, as shown above, can also thrive in a Nation State. Al Mawdudi, Khomeini, Qutb, Al Banna and even the Islamic State has made its own contribution to governance in Islam.

Economics, leadership and governance are so inter-linked in Islam that an unjust leader, such as a corrupted one who doesn’t foster economic development should be removed on the basis of scriptures such as this hadith: “Never obey anyone when your obedience to him is disobedience to the Creator.” Therefore, governance matters when looking at economic development and the fight against corruption in Islam, and overly focusing on institutions that are tied up to that State but also imbedded in social justice isn’t constructive. Looking at institutions and processes would make sense one was to assess their performance at the time of

⁴¹ Kuran, *supra* note 1, at 15

⁴² Timur Kuran, “Islam and Underdevelopment: an old puzzle revisited”, *Journal of Institutional and Theoretical Economics* 153 (1997) 41-71

⁴³ Kroessin, *supra* note 20.

the Prophet or in the Middle Age. We are now evaluating their performance within Nation States, in the 21st century, or as used by Muslim communities in Muslim-minority Nation States. To be able to fully understand the contribution of Muslim institutions and processes as they pertain to development and anti-corruption, it is necessary to consider contextualisation. The argument that Islamic economic, political, legal, social and cultural norms cannot be enforced in the 21st century is partly correct. It is true that Islam as envisaged initially has had to morph. This paper would be built on a fallacy if it didn’t admit that emergence of the nation-state didn’t impact Islam – a governance topic before being about economics or development- or if it denied the way codification changed Islamic law. These changes are to be admitted and have changed the way we practice Islam but also the way we use the tools given to us by the scriptures or developed by believers to decipher the scriptures. The emergence of the Nation State has also modified the way interpreters apprehend the concept of development in Islam. This is why scholars like An Na’im and Hallaq question the applicability of Shari’a law in the 21st century.⁴⁴ Yet, in no way did Islam as a religion failed the Middle East. It is rather the individuals interpreting the scriptures that could be at fault, which is to be expected as they are fallible human beings.

At the end of the Ottoman era, it became clear that Shari’a and Shari’a law wouldn’t survive in a loose shape, and that they had to be adapted to the modern era. It isn’t by accident that modernists such as Abduh and others raise the issue of contextualisation in the 19th century and that Taha develops it into a theory in the 20th century.⁴⁵ As Shari’a and Shari’a law made that shift from the classical period to the modern era, the whole Muslim political, legal and economic system was impacted. The State that has benefited the most from adapting to these changes remain the Islamic republic of Iran: the principle of the *velayat-e faqih* as developed by clerics in Najaf in the 50s has enabled the State to reconcile modern governance, Islamic scriptures and economics. In other Nation States that attempted integration of Islam in their governance systems at different degrees, it is clear that colonial remains, the transplants Kuran so eagerly encourage, and imperialist endeavours have crippled development. This isn’t to say that the Islamic republic of Iran is a success of matter of economics and development: it is impossible to provide statistics or data supporting either views as Iran first went through war before being subjected to sanctions and other internal issues. None of the Muslim state in

⁴⁴ Abdullahi An Na’im, *Islam and the Secular State* (Harvard University Press, 2010); Wael Hallaq, *The Impossible State* (Columbia University Press, 2012)

⁴⁵ Taha, *supra* note 9.

existence can produce the relevant data to conclude that Islam has failed in terms of economics, and development. It is a weakness in Kuran’s views as he doesn’t provide evidence of his argument and he often gives dated historical examples of institutions.⁴⁶ There are consequently no proofs that an Islamic legal and economic system wouldn’t lead to development.

The issue with development in the Middle East, or anywhere in the Muslim world, is therefore not about Islam, or institutions and processes. It isn’t about the so-called incompatibility between Islam and capitalism. It is about human beings and how qualified scholars have used *ijtihad* to interpret the scriptures. Therefore, rather than have a classical systemic approach to Islam that scrutinises the State and the institutions as practiced in the early centuries of Islam, this paper argues for a modern systemic approach: the modern nation state as invented in Europe has become the norm. While different extremist groups are trying to re-define the State, the transplanted Nation State remain the rule for the current time. We therefore have to factually admit it and operate within those boundaries. This doesn’t mean that the Muslim identity is lost and that we must all embrace secularism, capitalism and other liberal concepts. Work has been done by Muslim scholars on types of governance within the Nation State, where Islam is integrated,⁴⁷ showing thereby the resilience of Islam as a religion and a culture. The key to this resilience is the essential ability of Islam to adapt via *ijtihad* to all challenges. The same applies to Islamic precepts for economy and development, enabling interpreters to constantly create new strategies.

4.2 REFORMISM, CONTEXTUALISATION AND CORRUPTION

While there are arguments to state that Islam is not conducive to economic growth, there are views stating that reform is always an option. Proponents of reformism of Islam have grown stronger since the 19th century, and different theories support the idea of adapting Islam. Taha is one of them, and has purported the idea that we should contextualise the Quran to reflect the world we live in. The paper endorses this view on the grounds that the scriptures have provided sources, methods and techniques to continuously support the development of Islam, through centuries. The emergence of the Nation-State and the strong hold of capitalism shouldn’t therefore be perceived as systematic obstacles; the change of context is rather another for

⁴⁶ Kuran, *supra* note 1, at 14

⁴⁷ See the work of Hassan al Banna, al Mawdudi, Khomeini, but also more closely the whole literature on Islam and governance including authors like Hefner, Steunebrik, Muqtedar Khan, Esposito...

opportunity for Islam to demonstrate its ever flexibility and power to adapt. Consequently, far from being at fault when it comes to modern economics and to development, Islamic sources, methods and techniques are actually the key to change. Islam is so flexible in its inherent workings that it allows to adapt to almost any situation. While Kuran admits the ability of *ijtihad* and other tools, he criticized the ability of Islam to revolutionalise the foundations and the processes.⁴⁸ He blames Islam for not being modernized; those conclusions prevent him from engaging with a methodology that is changing Islam. The movement of the new hermeneutics of the Shari’a is world-wide and now centuries-old, and its impact must be acknowledged.

Yet, once applied to corruption, the contextualization argument is quite efficient as demonstrated by the reform of the legislation in the Islamic republic of Iran. The Iranian authorities reformed the Islamic Penal Code in 2012 to meet new challenges such as economic crimes. TBC

This argument of using *ijtihad* and contextualising is however a risky as demonstrated by the move to develop Shari-a compliant contracts, finance instruments and banking products: here, the use of eclectic *ijtihad* has led to creation deformed approaches, mimicking Islam. These instruments, products and practices are at odds with the essential Muslim message on economics.⁴⁹⁵⁰ Another issue needs to be addressed and that is the silent of the scriptures on modern inventions, whether they are of western origin or not. It is correct that while the solution to development and fighting economic crimes is mainly to be found in Islam, there is also a need to remain realistic and fit within the international market framework: for example, Muslim states need stock markets that could engaged at the international level. The same applies to banks, with the evolution into modern Islamic banks that Kuran denounce as an “invented tradition.”⁵¹ We touch on the confines of post-colonial theories, where to survive in a capitalist world, Muslims must embrace some concepts that aren’t in the scriptures while not being forbidden.⁵² This raises the issue of borrowing from the West and turn instruments, processes and instruments into “cosmetically⁵³” accepted Islamic ones. This is illustrated with the use of

⁴⁸ Kuran, *supra* note 1, at 7

⁴⁹ Abdallah Zouache, « De la question coloniale chez les anciens et néo-institutionnalistes » 124 :1 Revue d'économie politique (2014), 129-149.

⁵⁰ M. Shahid Ibrahim et al., “The Political Economy and the Perennial Underdevelopment of the Muslim World”, Bangor Business School Working Paper, 2012, <https://www.bangor.ac.uk/business/research/documents/BBSWP12011.pdf>

⁵¹ Footnote 17 in Kuran

⁵² Kuran, *supra* note 1, at 7.

⁵³ Check footnote 18 Kuran

Sharia compliant tools above. This raises the question of transplantation, encouraged by Legrand: how far do states need to go when transplanting an instrument that will support development? There is no yardstick to measure transplantation other than cultural legitimacy, if approached from that lens. Others would rather look at effectiveness, so the impact on the economy, while some would rather assess institutional changes. On that topic, Kuran says that “[B]orrowing selectively, each adjusted transplanted institutions to local circumstances. Their shared goal was to replicate specific western achievements, not to appropriate western culture indiscriminately.” Such disclaimers enable him to avoid being labelled as an imperialist, but he doesn’t provide an agenda for the transplant, thereby raising questions with regard to orientalist practices of transplantation.

5. CONCLUSION

The tensions existing within the field of Islamic development are not unknown: Baderin had already pointed at the difference between an adversarial approach to religion that considers Islam as the root of all problems;⁵⁴ he then supported an harmonistic approach to religion, that examine the dynamism and ability to adapt of Islam.

⁵⁴ Mashood Baderin, “Human Rights and Islamic Law: The Myth of Discord” (2005) 2 *European Human Rights Law Review*, 165-185; Mashood Baderin “Islam and the Realization of Human Rights in Muslim World: A Reflection on Two Essential Approaches and Two Divergent Perspectives” (2007) *Muslim World Journal of Human Rights*